

**OCT 18 2005**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

GODWIN SUNDAY EDUKERE,

Defendant-Appellant.

No. 03-50413

D.C. No. CR-02-01273-ABC

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Audrey B. Collins, District Judge, Presiding

Submitted October 11, 2005 \*\*

Before: T.G. NELSON, WARDLAW, and TALLMAN, Circuit Judges.

Godwin Sunday Edukere appeals his jury trial conviction and 33-month sentence for health care fraud, in violation of 18 U.S.C. § 1347. We have jurisdiction pursuant to 28 U.S.C. § 1291.

Because Edukere's contention regarding ineffective assistance of trial

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

counsel is inappropriate for resolution on direct appeal, we decline to review it.

*See United States v. Daychild*, 357 F.3d 1082, 1095 (9th Cir. 2004).

We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc).

**CONVICTION AFFIRMED; SENTENCE REMANDED.**